

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

LIMETREE BAY SERVICES, LLC, *et al.*¹

Debtor.

Case No. 21-32351

Chapter 11

**EXCEL CONSTRUCTION AND MAINTENANCE V.I., INC.S'
NOTICE OF MAINTENANCE OF LIEN PURSUANT TO SECTION 546(B) OF THE
BANKRUPTCY CODE**

Excel Construction and Maintenance V.I., Inc. ("Excel") gives notice pursuant to 11 U.S.C. §546(b) of the following lien and the maintenance thereof on property of Limetree Bay Services, LLC and/or one or more of the other Debtors (collectively, the "Debtor").

1. On July 12, 2021 (the "Petition Date"), Debtor filed a voluntary petition under Chapter 11 of Title 11 of the U.S. Code (the "Bankruptcy Code"). Debtor's case is currently being jointly administered.

2. The Debtor operates the property commonly known as Limetree Bay Refinery (the "Property"). Excel is a contractor to Debtor providing labor and materials incorporated into the work done by Debtor at the Property on a project known generally as the Limetree Refinery Restart Project ("Project"). Debtor failed to pay Excel for the work done at the Property. Excel has filed its proof of claim as Claim No. 1, as it may be amended

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671) ; Limetree Bay Refining Operation, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors' mailing address is Limetree Bay Services, LLC, 11100 Brittmore Drive, Houston, TX 77041.

from time to time (“Excel’s POC”) in this matter for the amount owed to it, being \$25,656,963.59. Excel’s POC is incorporated in this notice by reference thereto.

3. On June 24, 2021, Excel recorded a notice of claim of construction lien with the Office of the Lieutenant Governor and Recorder of Deeds located in the Virgin Islands (St. Croix) for the unpaid value of the services provided by Excel which was incorporated into the work done by Limetree at the Property (the“Lien”) a true and correct copy of which is attached to Excel’s POC. Excel has not been paid the amount owed to it by the Debtor as set forth in the Lien.

4. Under Bankruptcy Code § 362(b)(3), a bankruptcy petition does not stay “any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's [or debtor in possession's] rights and powers are subject to such perfection under 546(b) of this title[.]” Under Bankruptcy Code § 546(b)(1), “The rights and powers of a trustee [or debtor in possession] . . . are subject to any generally applicable law that-- (A) permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection[.]” Under the law of the Virgin Islands, the location of the Project, the Lien attaches at the time of its recordation and takes priority over any transfer, security interest, judgment, subsequent advances made under a prior recorded security instrument, or other lien or claim against the Property which was not recorded or perfected as of the filing of the Lien. V.I. Code Ann. tit. 28 § 258.

5. Where applicable law requires commencement of an action to perfect or maintain the perfection of a lien described in Bankruptcy Code § 546(b)(1), Bankruptcy Code § 546(b)(2) “allows, and indeed compels, creditors to give notice to a debtor instead of filing suit.” *In re 360 Networks (USA) Inc.*, 282 B.R. 756, 763 (Bankr. S.D.N.Y. 2001) (citing *In re Baldwin Builders*, 232 B.R. 406, 412 (B.A.P. 9th Cir. 1999)). In order to maintain the effectiveness of its perfected Lien, Virgin Islands law requires Excel to commence an action against the Debtor within 90 days of filing its Lien. V.I. Code Ann. tit. 28 § 2271(a).

6. Excel hereby give notice of its Lien and the maintenance and perfection thereof pursuant to Section 546(b) of the Bankruptcy Code.

Respectfully submitted,

By: /s/David S. Rubin

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CERTIFICATE OF SERVICE

I certify that on the date of the filing of this document it was served by electronic service on all parties and counsel that are receiving notice via the Court’s Electronic Case Filing system.

/s/ David S. Rubin